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In re Application of :
Hyttinen et al. :
Application No. 10/749,872 : DECISION ON SECOND RENEWED
Filed: December 31, 2003 : PETITION PURSUANT TO
Attorney Docket No.: 915- : 37 C.F.R. § 1.181(A)
008.018 :
Title: LOG SYSTEM FOR CALENDAR :
ALARMS :

This is a decision on the second renewed petition filed January 4, 2010,¹ pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed April 16, 2008, which set a period for reply of one month. No response was received. Accordingly, the above-identified application became abandoned on May 17, 2008. A notice of abandonment was mailed on June 8, 2009.

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on July 24, 2009, where Practitioner indicated that the notice of non-compliant amendment was not received at the

¹ It is noted that January 2, 2010 fell on a Saturday.

correspondence address of record,² and that a search of the "files" indicates the same.³ Petitioner further included a copy of both the mail log and the master docket for the relevant time period. The original petition was dismissed via the mailing of a decision on September 1, 2009.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on October 5, 2009, along with, *inter alia*, copies of daily mail lists (which are distributed to each practitioner for his/her review), and a description of the system used for recording an Office communication received at the correspondence address of record with the USPTO. Petitioner indicated that all mail received from the Office is entered onto a daily mail list, and all communications that carry a period for response are entered into "the electronic docketing system." Moreover, due dates are placed on the front of the application file wrappers, and docket entries appear "in the printed docket for each individual practitioner."⁴ The renewed petition was dismissed via the mailing of a decision on November 2, 2009.

With this second renewed petition, Petitioner has indicated that the electronic docketing system generates the printed dockets on a monthly basis and are distributed to each attorney for his/her review,⁵ and has provided a copy of the printed docket for the relevant practitioner during the relevant timeframe, to show that the notice of non-compliant amendment of April 16, 2008 does not appear thereon.⁶

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the notice of non-compliant amendment of April 16, 2008 was not received, pursuant to MPEP § 711.03(c).

Accordingly, this second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

² Original Petition, page 2.

³ *Id.*

⁴ Renewed petition, page 3.

⁵ *Id.*

⁶ It is noted that the docket does not appear to contain complete docket numbers, and as such, there are several entries which contain the identifier "915-008" as the associated attorney docket number. However, none of these entries list "Log System for Calendar Alarms" as the title of the application, and as such, none appear to be associated with the present application.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on January 4, 2010 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.⁷ All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanowski/
Paul Shanowski
Senior Attorney
Office of Petitions

⁷ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).